

**Subject: [Fwd: Information on NAFTA and PPP- SOME SLIDES - and Info on our famous Metal Clad case]**

**Date:** Sat, 27 Apr 2002 17:57:34 -0700

**From:** Brian Platts <brian\_platts@telus.net>

**To:** Corrie Kost <kost@triumf.ca>

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**Subject: Re: Information on NAFTA and PPP- SOME SLIDES - and Info on our famous Metal Clad case**

**Date:** Sat, 13 Apr 2002 20:55:00 -0700

**From:** Bill Tracey <bill\_tracey@telus.net>

**Organization:** Systek Engineering Ltd.

**To:** John Hunter <johnhunter@idmail.com>

**CC:** "Co Mayor Don Bell" <don\_bell@dnv.org>, "Councilor Bill Denault" <bill\_denault@dnv.org>, "Councilor Doug MacKay-Dunn DNV" <doug\_mackay-dunn@dnv.org>, "Councilor Ernie Crist DNV" <ernie\_crist@dnv.org>, "Councilor Heather Dunsford DNV" <heather\_dunsford@dnv.org>, "Councilor Janice Harris DNV" <janice\_harris@dnv.org>, "Councilor Lisa Muri DNV" <lisa\_muri@dnv.org>, "FONVCA" <fonvca@fonvca.org>, rzerr@dnv.org, "Allan Orr DNV" <allandorr@shaw.ca>, "Angela Trudeau" <a.trudeau@canada.com>, "Brian Platts DNV" <brian\_platts@telus.net>, "Cathy Adams DNV" <cathyadams@canada.com>, "Corrie Kost DNV" <kost@triumf.ca>, "Dave Sadler DNV" <davesadler@telus.net>, "Elizabeth James CAGE" <cagebc@yahoo.com>, "Eric Anderson hotmail" <eric\_g\_andersen@hotmail.com>, "Maureen Bragg" <m.bragg@shaw.ca>, "Peter Thompson DNV" <bedeconsulting@shaw.ca>

The Metalclad case is, indeed, on the web, along with many commentaries. However, the two factual sites are:

[www.worldbank.org/icsid/cases/mm-intro.pdf](http://www.worldbank.org/icsid/cases/mm-intro.pdf) (3 pages)

and

[www.worldbank.org/icsid/cases/mm-award-e.pdf](http://www.worldbank.org/icsid/cases/mm-award-e.pdf) (35 pages)

Interestingly, the case was tried in BC, and the award is presently being appealed by Mexico to the Supreme Court of BC, I believe.

The award document is particularly instructive, because it sets out very clearly the basis for the award under law and the NAFTA treaty. In particular, it clearly defines the responsibility of the federal government (as party to the treaty) to ensure that all lower levels of government adhere to the articles of the treaty. I recommend it be read by anyone interested in how PPP involving foreign companies means that those companies must be extended the same protection afforded local companies against "expropriation" without compensation, where expropriation includes the concept of denial of use for the intended purpose of the investment.

Bill

John Hunter wrote:

- > *Attached as PowerPoint are a few of my slides from a recent presentation*
- > *I made on PPP at a Vancouver Conference.*
- >
- > *Included is some general info on NAFTA; the source is mainly a Toronto*
- > *law firm. The conclusions fit my own understanding from legal work for*
- > *Westcoast Energy's \$1.2 billion US project in Mexico on which I worked*
- > *in Mexico for a year. It receives NAFTA protection as do most Canadian*
- > *investments in the US or Mexico.*
- >